



**DEPARTMENT OF THE NAVY**  
NAVAL SUPPLY SYSTEMS COMMAND  
5450 CARLISLE PIKE  
PO BOX 2050  
MECHANICSBURG PA 17055-0791

NAVSUPINST 4200.83F  
SUP 21B1  
7 July 2003

NAVSUP INSTRUCTION 4200.83F

Subj: CONTRACTING AND BUSINESS CLEARANCE PROCEDURES AND APPROVALS

Ref: (a) Federal Acquisition Regulations  
(b) Defense Federal Acquisition Regulations Supplement  
(c) Navy Acquisition Procedures Supplement

Encl: (1) Justification and Approvals Procedures  
(2) Acquisition Plan Procedures  
(3) Business Clearance Procedures

1. Purpose. To update and establish contracting and business clearance procedures and identify the applicable approval levels required.

2. Cancellation. NAVSUPINST 4200.83E. Due to the numerous changes, this instruction should be read in its entirety.

3. Scope. This instruction applies to field contracting offices (excluding afloat units) receiving contracting authority and direction from Commander, Naval Supply Systems Command (NAVSUPHQ). It does not exempt field activities from complying with references (a), (b) and (c).

4. Background. The Federal Acquisition Regulations (FAR), the Defense Federal Acquisition Regulations Supplement (DFARS) and the Navy Acquisition Procedures Supplement (NAPS) require that various documentation be prepared and approved prior to solicitation and/or award of a contract. This instruction specifies the approval levels and formats for this required documentation. Specific guidance unique to indefinite delivery type contracts may be found in NAVSUPHQ Publication 570, "Indefinite Delivery Type Contract and Ordering Officer Guidebook."

5. Procedures

a. Justification and Approvals (J&A). With certain limited exceptions, 10 U.S.C. 2304 requires that contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts. FAR Part 6 provides the policies and procedures to promote and provide for full and open competition and specifies the documentation and approvals required for

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contracting without providing for full and open competition. Enclosure (1) supplements the FAR, DFARS, and NAPS coverage and provides specific procedures for the preparation and processing of J&As.


b. Acquisition Plans (APs). FAR Subpart 7.1 requires agencies to perform some type of acquisition planning for all acquisitions. This planning may be informal or may require a detailed, formal written plan. DFARS Subpart 207.1 establishes the criteria and thresholds for preparation of formal written acquisition plans. Enclosure (2) supplements the FAR and DFARS coverage and provides specific instructions applicable to the Navy Field Contracting System (NFCS). The Chief of the Contracting Office (CCO) is delegated authority to approve all APs required by the DFARS up to \$100 million. SUP 02 approval is required for APs in excess of \$100 million. For contracting offices with less than \$100 million procurement authority, the CCO authority is limited to the activity's procurement authority.

c. Business Clearances. FAR Subpart 1.6 requires that the contracting officer ensure that all requirements of law, executive orders, regulations and other applicable procedures are met prior to entering into any contract. The business clearance aids the contracting officer to ensure compliance with this FAR direction. Detailed business clearance instructions are found in enclosure (3). SUP 02 approval is required for pre-negotiation and post-negotiation clearances for requirements in excess of \$100 million. Contracting offices should formalize a review/approval process for requirements below \$100 million. For contracting offices with less than \$100 million procurement authority, the CCO authority is limited to the activity's procurement authority.

6. Request for Changes. Send requests for changes to this instruction to NAVSUPHQ 21. The request should be self-sustaining and include a statement of the problem, the recommended solution and any necessary discussion. Additional supporting information may be provided as enclosures.

7. Request for Waiver or Deviation. Requests for waivers or deviations from this instruction must be submitted to NAVSUPHQ 02. Requests must be signed by the commanding officer, the supply officer or the CCO for the applicable field activity.

8. Action. This instruction is effective upon publication.



D. M. FITZGERALD  
Deputy Commander  
Contracting Management

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**JUSTIFICATION AND APPROVALS PROCEDURES**

1. General. Per 10 U.S.C. 2304(c), a contracting officer may, under certain conditions, contract without providing for full and open competition. These conditions are specified in FAR 6.302. A contracting officer's decision to contract without providing for full and open competition must be authorized by one of these conditions and be fully supported, documented and approved. Preparation and approval of the J&A requires input from technical and requirements personnel, counsel and the contracting officer. Approval by the competition advocate, NAVSUP 02, and/or Assistant Secretary of the Navy (ASN) may also be required based on the dollar value of the J&A.

2. Content and Format of the J&A. As a minimum, each J&A shall contain the information required by FAR 6.303, DFARS 306.303, NAPS 5206.303 and this instruction.

a. Content of the J&A. In addition to the information required by FAR, DFARS, and NAPS, the J&A shall include the following:

(1) A control number assigned by the activity (insert below activity letterhead).

(2) Identification of the contract specialist or negotiator who prepared the document.

(3) Approval of the justification shall be approved in writing per FAR 6.304.

(4) Indication of counsel review for legal sufficiency. In those instances where no counsel has been assigned, the action shall be referred to the cognizant regional contracting activity's counsel for processing and then returned to the originating contracting office. NAVSUPHQ Counsel (NAVSUP 93) will coordinate legal review and assist upon request.

(5) J&As submitted to the Deputy Assistant Secretary of the Navy for Acquisition Management (DASN (ACQ)) for approval must address the full range of pricing alternatives. This information should be discussed in paragraph 7 of the standard format, "determination of fair and reasonable cost". For J&As submitted to NAVSUP 02 for approval may be provided either by addressing it as above or by reference to the AP.

If NAVSUP 02 does not have the AP, a copy shall be provided with the J&A for review.

(6) Certification that the requirement can/cannot be met by a commercial item, along with supporting documentation.

b. Format of the J&A. Every J&A must include the following paragraph numbers and informational headings:

- (1) Identify the agency and contracting activity.
- (2) Nature/description of action/contract type.
- (3) Description of supplies/services.
- (4) Identification of statutory authority.
- (5) Demonstration of contractor's unique qualifications.
- (6) CBD announcement/potential sources.
- (7) Determination of fair and reasonable cost/price.
- (8) Description of market survey.
- (9) Any other supporting facts.
- (10) Listing of interested sources.
- (11) Actions taken to remove barriers to competition.
- (12) Statement of delivery requirements.
- (13) Total estimated dollar value of the acquisition covered by this J&A with funding specified by year and appropriation.
- (14) Reference to the approved AP.
- (15) Documentation for spare/repair parts acquisitions.

If a particular heading does not apply, indicate N/A for "not applicable". If the reason for the N/A is not obvious, include a brief narrative explaining why the particular heading does not apply.

### 3. Special Instructions for Specific Authorities

a. Unusual and Compelling Urgency (FAR 6.302-2). The use of the "unusual and compelling urgency" exception to full and open competition (10 U.S.C. 2304(c)(2)) requires careful scrutiny by the contracting activity particularly when used for "bridge contract modifications". This exception is appropriate when an unusual and compelling urgency precludes full and open competition and delay in award of the contract would result in serious injury, financial, or other to the Government. FAR 6.301(c) provides that "(c) contracting without providing for full and open competition shall not be justified on the basis of (1) a lack of advance planning by the requiring activity or (2) concerns related to the amount of funds available..." (Note: This applies when using any of the statutory authorities that permit contracting without providing for full and open competition.) Frequently, while the acquisition may be urgent now, the circumstances leading up to the justification do not sufficiently demonstrate and support the criteria for unusual and compelling urgency. How the Government got into the urgent

situation **DOES** matter. As a general rule, this authority shall not be used and the J&A will not be approved when the urgency of the procurement is the result of, or is based upon circumstances within the control of the Government personnel involved in the procurement process (i.e., inadequate planning, failure to take action on the procurement within a timely manner, or other administrative delays).

(1) A J&A using this authority may be completed after contract award when preparation and approval prior to award would unreasonably delay the acquisition. However, for acquisitions over \$10 million, the contracting office shall verbally advise and coordinate the details with NAVSUPHQ 02 prior to contract award. The activity shall forward the written J&A to NAVSUPHQ for approval within 15 days following verbal coordination. The Naval Inventory Control Point (NAVICP) is exempt from this coordination requirement. J&As citing the unusual and compelling urgency exception shall be given top priority and shall be handled expeditiously at all stages (e.g., solicitation preparation, source selection, etc.) of the acquisition process. Unusually long administrative lead-time is inconsistent with the use of this authority.

(2) Advance procurement planning and regularly scheduled meetings to develop and review milestone plans are fundamental in keeping the number of urgency J&As to an absolute minimum.

(3) Use of "unusual and compelling urgency" authority provides for expeditious processing of an urgent requirement without requiring "full and open competition". It does not automatically mean "non-competitive" acquisitions. Contracting personnel should still strive to maximize competition at a level less than "full and open competition" within the constraints of the urgency.

b. International Agreement (FAR 6.302-4). Per DFARS 206.302-4(c), the International Agreement exception to full and open competition does not require a J&A "if the head of the contracting activity prepares a document that describes the terms of an agreement or treaty or the written directions such as a Letter of Offer and Acceptance, that have the effect of requiring the use of other than competitive procedures for the acquisition." NAVSUPHQ as Head of Contracting Activity (HCA), has delegated, without power of redelegation, the authority to prepare the required document to the CCO with approval by the competition advocate for the contracting office.

#### 4. Certification and Approval Requirements

a. Technical and Requirements Personnel Certification Requirements. The technical assertions and recommendations to support the J&A shall be reviewed by the activity's competition advocate (if such an individual has been assigned). FAR 6.303-1(b) requires technical and requirements personnel to certify the J&A as accurate and complete. The end user may perform this technical certification and the requirement certification should be at least two levels above the technical certification. This certification level is applicable to activities under NAVSUPHQ as HCA.

b. Contracting Office Certification and Approval Requirements. For procurements valued at \$10 million or less, J&A approval requirements/levels are stipulated in FAR 6.304. The following direction applies to procurements that are greater than \$10 million:

(1) Over \$10 million but not exceeding \$50 million. The approval authority for proposed contract actions over \$10 million, but not exceeding \$50 million, is the HCA. Accordingly, the commanding officer NAVICP, as an HCA, is permitted to approve his own J&As. All other activities are to submit their J&As by letter to NAVSUP 22.

(2) Over \$50 million. The approval authority for proposed contract actions in excess of \$50 million is DASN (ACQ). J&As submitted for approval shall be forwarded as an enclosure to a brief transmittal letter to ASN (RD&A), DASN (ACQ) via NAVSUP 02. Also enclosed should be current, consistent planning documentation as discussed in NAPS 5206.303-2. The transmittal letter forwarding the J&A shall also include the following information: 1) any issues relating to contractor performance, and 2) Congressional language relevant to the procurement (i.e., specific law, report language or know Congressional interest). The forwarding memo should state if there is no information of this type. As HCA, NAVSUPHQ will sign J&A transmittal letters for field activities, except the NAVICP. NAVICP, as an HCA, may sign its own transmittal letters. However, NAVICP shall submit J&As to ASN via NAVSUP 02. After review and concurrence, NAVSUPHQ will endorse the J&A and forward it to ASN. NAVICP may delegate its signature authority to a level no lower than the HCA. These J&As must be submitted to SUP 02 for review prior to discussions between the contracting office and ASN (RD&A) concerning the acquisition. This permits NAVSUP 02 to play an active role in seeking the approval of ASN (RD&A). NAVSUP 02's goal is to forward these J&As to ASN (RD&A) no later than 2 days of receipt provided changes are not required.

5. Class J&As. When the requiring activity has identified supplies or services which may be procured on a recurring,

noncompetitive basis, contracting activities should consider the benefits of class J&As. Class J&As may enable the contracting activity to reduce procurement lead-time and be more responsive to their customer's needs.

Class J&As are approved in the same manner as individual J&As and the class J&A showing approval signature shall be made a part of the contract file of each acquisition covered by the class justification. Per NAPS 5206.304(c), the cumulative dollar value of all actions contemplated under the class justification will be used to determine the approval authority for the class justification.

6. Modifications to J&As. If negotiations result in a change in the scope of the J&A (i.e., the description of the supplies and services, including quantity or period of performance has changed), a new justification approval must be obtained from the appropriate approval authority prior to award. In addition, per NAPS 5206.304(a), a new justification approval must be obtained from the appropriate approval authority prior to award when the dollar value of the negotiated contract exceeds the dollar threshold of the original approval authority. For those actions which originally required NAVSUP 02 approval, the contracting officer shall notify the cognizant NAVSUP 22 analyst by telephone prior to submitting the formal, written notice and prior to taking action which is not in conformance with the approved J&A.



**ACQUISITION PLAN PROCEDURES**

1. General. The AP is a written document which sets forth acquisition objectives and outlines all technical, business, management and other significant considerations (e.g., risks, logistics requirements, available sources, trade-offs) impacting the acquisition. The criteria for determining whether an AP is required are provided in DFARS 207.103. NAPS 5207.103 provides a list of when written APs are not required. For acquisition programs, activities are reminded that it is inappropriate to segregate individual requirements before determining whether the acquisition program meets the DFARS thresholds requiring an AP. The total contractual cost of an acquisition program includes the cost of all items that, if procured by the activity, would not require an AP.

2. Preparation. The preparation of an AP is the formalization of acquisition planning which begins as soon as a requirement is identified. The information to be included in the AP depends upon the nature and stage (i.e., development, full-scale production, etc.) of the acquisition; however, FAR 7.1 and DFARS 207.1 provide guidance on specific areas that must be addressed.

3. Review and Approval. Activities shall review AP's through a Contract Review Board (CRB). Approval authority for AP's has been delegated by ASN (RD&A) to the cognizant program executive officers, direct reporting program managers and HCA's. NAVSUPHQ, as HCA, has delegated to the CCO the authority to approve all APs below \$100 million.

## **BUSINESS CLEARANCE PROCEDURES**

1. General. The Government's business rationale is normally set forth in a pre-negotiation and post-negotiation business clearance and provides the activity and NAVSUPHQHQ, as manager of the NFCS, a means to monitor the procurement operation. The business clearance position is normally developed as a result of input from various sources including auditors and other specialist.

### 2. Contract Audits and Audit Resolutions

a. The contract specialist shall perform an independent analysis of the proposal. Within business clearances, it is not sufficient to only address the auditor's recommendations. Audits are advisory in nature and do not relieve the contract specialist from demonstrating that the proposed negotiation objective constitutes a fair and reasonable price. Therefore, the contract specialist's independent analysis shall be discussed in all business clearances.

b. Per the Federal Acquisition Streamlining Act, no pre-award audit shall be performed to evaluate proposed indirect costs when the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any department or agency within one year preceding the date of the contracting officer determination.

c. As required by FAR 15.406-3(b), "Whenever field pricing assistance has been obtained, the contracting officer shall forward a copy of the negotiation documentation to the office(s) providing assistance. When appropriate, information on how advisory field support can be made more effective should be provided separately."

### 3. Business Clearance Approval Requirement Within The Contracting Activity

a. Business Clearance Format. Attachment (A) to enclosure (3) provides the format and instructions for preparing a business clearance. The content of each section should be tailored to accommodate the complexities of the procurement. This format shall be used for all contract awards unless you are using simplified acquisition procedures. The format also applies to those actions listed in items (2) through (8) in NAPS 5201.690(b). Attachment (B) to enclosure (3) supplements the business clearance format to accommodate alpha negotiations.

b. Contract Review Board. To ensure business clearances receive sufficient scrutiny, a CRB shall be established at each

major field contracting activity where two or more persons are appointed from within the contracting organization to act as contracting officers with authority to sign bilateral contracts and are acting in that capacity concurrently. The CRB provides appraisal of significant proposed contract actions at the highest level of competence and experience available at the field contracting activity. This appraisal is a supplement to, not a substitution for, normal supervisory and contracting officer reviews. The CRB shall ensure that proposed contractual actions are in the best interest of the Government and comply with established acquisition policies and procedures. Additionally, the CRB shall foster the training of contracting personnel.

(1) CRB Actions. Each activity shall establish, via written procedures, the types of contractual actions requiring a CRB. The types of actions listed below are recommended for such reviews:

(a) APs over a stated threshold established by the activity.

(b) Authority to negotiate when the estimated value of the action exceeds a stated threshold established by the activity.

(c) Awards over a stated threshold established by the activity.

(d) Awards to firms currently and inexcusably delinquent whether or not award is recommended by the cognizant Defense Contract Management Agency pre-award monitor.

(e) All modifications involving an increase or decrease in value exceeding a stated threshold established by the activity.

(f) All modifications extending the contract delivery schedule with or without consideration.

(g) Actions requiring approval, either within or outside the activity, at a level high than the contracting officer.

The dollar value thresholds in the above list shall be established at a level that will ensure a representative sample of all actions receive CRB review and scrutiny commensurate with contracting authority. Care shall be exercised to ensure that only significant cases are presented to the review board and that this medium is not used to circumvent or relieve superiors

from their normal supervisory responsibilities and accountability.

(2) CRB Membership. Membership of the CRB shall comprise at least three of the activity's most competent and experienced contracting personnel. The CCO is responsible for the quality of the CRB program and therefore, is strongly encouraged to chair the CRB whenever feasible. The Chair shall make the final decision on the approval or disapproval of the action under review. The members of the CRB shall register their opinions, both majority and minority of the proposed contractual action. Advisory personnel such as legal counsel, price analysts, engineers, competition advocate and small business specialist are encouraged to participate in the CRB process. The chairperson may, at his/her discretion, have these advisory personnel sign appropriate CRB documentation to show their participation in the case. New negotiators and trainees are also encouraged to attend CRBs for training purposes.

(3) CRB Process. All contractual actions submitted to the CRB shall have received normal supervisory and contracting officer review and approvals. The CRB action shall be presented by the person primarily participating in the principal elements of the proposed action or, in this person's absence, by his immediate supervisor. A CRB member who is primarily participating in the elements of a proposed action, is presenting the case for review, or is acting as the contracting officer on the case, shall not be a member of the board for that particular case; if necessary, a replacement member will be designated. For maximum effectiveness of review boards, cases for presentation should be given to CRB member such that the case may be reviewed before the board convenes. The use of presentation check-off lists is recommended. The approval or dissent of each CRB member present shall be indicated by their signature on the award sheet or other appropriate document. These documents shall be included in the contract file to indicate compliance with CRB procedures. Additionally, each activity will maintain a log to record CRB actions. The log shall include the case number, solicitation number, contract number, type of contract action being reviewed, estimated dollar value, names of the voting members of the CRB and the disposition of the action.

4. Business Clearance Approval Requirements For Business Clearances Requiring Approval by NAVSUPHQHQ. Business clearances requiring NAVSUPHQHQ approval should be submitted to NAVSUPHQ 22 via electronic mail from the CCO. The electronic mail should include the clearance document, a list of those who attended the local CRB, a confirmation that the clearance and the underlying contractual documents have been reviewed by counsel (together with copies of said legal reviews) and a point

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of contact (i.e., the contracting officer or specialist). Clearance attachments (e.g., spreadsheets, audits or technical evaluations) are not required upon submission for approval. If necessary, this information will be requested during the course of our review. Comments, questions/answers and clearance revisions will be accomplished by telephone or electronic mail between the NAVSUPHQ analyst and activity point of contact. Approval, conditional approval or disapproval of the clearance will be made via a NAVSUP 02 level CRB. NAVSUP 02 CRB approval will be faxed or emailed to the field activity.

5. Increases in Business Clearance Approval Threshold. NAVSUPHQ may consider requests for increases in business clearance approval thresholds on a case-by-case basis. Each request must be submitted in writing and must be accompanied by the activity's CRB instruction and quality assurance plan. Requests should be submitted to Commander, Naval Supply Systems Command, NAVSUP 02. NAVSUPHQ will review the CRB instruction, the quality assurance plan and perform an on-site review of the activity's operating quality assurance system prior to granting an increase in the business clearance approval threshold. NAVSUPHQ will provide written notification of approval of the increased threshold.

6. Claims Review and Approval. NAPS 5233.9001 establishes approval requirements for settlement of contractor claims. All proposed claim settlements or proposed final decisions of the contracting officer involving payments between \$1 million and \$25 million must be reviewed and approved at NAVSUPHQ except for those of the NAVICP. For claims exceeding \$25 million the approval remains ASN (RD&A) DASN(ACQ). All claims exceeding \$25 million, settlement commitment or final decision involving payments shall be made prior to obtaining the required approval. Each proposed settlement commitment and proposed final decision shall be supported by a business clearance.

a. Actions Requiring Approval by NAVSUPHQ. Proposed settlement commitments and proposed final decisions requiring NAVSUPHQ review and approval are to be submitted to the Commander, Naval Supply Systems Command, NAVSUP 02. An original plus one copy of the business clearance and one copy of each supporting document shall be submitted.

b. Actions Requiring Approval by ASN (RD&A). For proposed settlement commitments and proposed final decisions requiring approval by ASN (RD&A), submit an original and one copy of the business clearance memoranda and enclosures to ASN (RD&A) DASN (ACQ) via NAVSUP 22.

**BUSINESS CLEARANCE FORMAT AND INSTRUCTIONS**

**COVERSHEET** - The coversheet will include the number of the clearance, a brief description of the acquisition, the contracting officer's signature, the approving official's signature (if other than the contracting officer) and when required, the signatures of counsel and contract review board members. The NAVSO Form 4310/1 (3/86) may be used as a coversheet.

**SECTION I. SUMMARY OF KEY DOCUMENTS AND ATTACHMENTS**

A. Summary of Key Documents. List (with type/name and date) all significant documents applicable to the procurement.

B. List of Attachments. Attach documents relevant to elements discussed in the clearance.

**SECTION II. BACKGROUND**

Document relevant pre-solicitation information and historical data which will aid in the explanation and substantiation of the recommendations discussed in the clearance.

A. Procurement History. Provide historical information pertaining to the contractual and technical background of the program supported under the proposed contract. Most of this information will have already been documented during pre-solicitation acquisition planning. Therefore, this section should also describe deviations from the acquisition plan (e.g., changes in evaluation criteria, and reasons why initial Plan of Action and Milestones were not met).

B. Negotiation Environment. Summarize the negotiation environment and pre-negotiation objective (e.g., negotiate to the clearance's objective with the sole source contractor, conduct competitive discussions).

C. Extent Competition Solicited and Secured. Discuss the following elements:

- To what extent was competition solicited? (i.e., was the procurement sole source or competitive, 8(a) set-aside, small business set-aside, commercial item acquisition, A-76 comparison, etc.?).
- Number of firms requesting a copy of the solicitation or number of solicitation web page visits from commercial visitors.

- Solicitation issue and closing dates.
- Number and content of amendments.
- Number of offers received (if only one offer was received in a competitive solicitation, provide analysis of why competition wasn't obtained and what can be done to improve the next solicitation).
- Certification that the requirement can/cannot be met by a commercial item along with supporting documentation.

D. Contract Type. A brief summary of the reasons for selecting the chosen contract type. (This issue must be more fully addressed in the acquisition planning documentation).

### **SECTION III. NON-PRICE EVALUATION**

This section will document the analysis of any non-price factors (e.g., technical capability, oral presentations, past performance, or use of small and small disadvantaged businesses). Include a complete analysis of weaknesses, deficiencies and strengths (when tradeoffs are used). When tradeoffs are performed, include a summary, matrix or quantitative ranking of offerors and discuss the differences between offerors. The tone of this section should indicate that the evaluation is the contracting officer's product to the extent the contracting officer has reviewed the evaluation and agrees with the evaluator's findings.

### **SECTION IV. PRICE/COST ANALYSIS**

Prior to documenting the price/cost analysis, this section should address the extent to which cost data was obtained. If the procurement is in excess of \$500,000 and "cost or pricing data" wasn't obtained, the clearance should state what exception at FAR 15.403-1(b) applies. The Office of the Under Secretary of Defense (OUSD) for Acquisition, Technology, and Logistics (AR&L) memorandum of February 11, 2003, advises that Section 817 of the National Defense Authorization Act for Fiscal Year (FY) 2003 directs that specific guidance be issued regarding when it is appropriate for an HCA to waive the certification requirements of the *Truth in Negotiations Act*. Further, this memorandum, along with the ASN (RD&A) memorandum of Mar 3, 2003, states that all of the following conditions must be met for an HCA to waive the certification requirement: (1) the property or services cannot reasonably be obtained under the contract; subcontract, or modification without the granting of the waiver; (2) the price can be determined fair and reasonable without the submission of certified cost or pricing data; and (3) there are

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demonstrated benefits to granting the waiver. If "information other than cost or pricing data" was used, briefly summarize what the information is, how it was obtained, and how it was used. The remainder of this section will be the traditional price/cost analysis as required (a price analysis is required even when adequate price competition is obtained). Even when cost analysis is used to evaluate the reasonableness of the individual cost elements, price analysis shall be used to verify that the overall price offered is fair and reasonable.

#### **SECTION V. SOURCE SELECTION DECISION**

This section should represent your award decision rationale. If trade-offs are considered, this section will document the cost/technical trade-off analysis. If discussions will be held, this section will document the competitive range determination.

#### **SECTION VI. CONTRACTOR RESPONSIBILITY AND COMPLIANCES**

A. Determination of Contractor Responsibility. A responsible prospective contractor meets the standards in FAR 9.104.

B. Compliances. To respond to the questions posed in this area, go to:

1. Cost accounting standards certification (FAR 30.202-6). Disclosure statement for the prime(s) and subcontractor(s) (FAR 30-202-6&8).

2. Accounting system (FAR 15.406-3 & 32.503-3).

3. Purchasing system (FAR 44.302, 15.405, and 15.406-3).

4. EEO (Federal Register Volume 62, No. 160, 19 Aug 97).

5. Certificate of Current Cost or Pricing Data (FAR 15.406-2).

#### **SECTION VII. OTHER INFORMATION**

Pertinent information not addressed elsewhere.

#### **SECTION VIII. POST-NEGOTIATION SUMMARY**

A. List of Attachments. Attach documents relevant to elements discussed in the clearance (e.g., pre-negotiation business clearance, abstract of final revisions, etc.).

Attachment (A)  
to Enclosure (3)



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B. Introduction. Discuss when pre-negotiation clearance approved, conditions of the approval, how these conditions were resolved and where in the body of the clearance these conditions were discussed. Update events since pre-negotiation clearance approval.

C. Results of Negotiation

1. Discuss rationale for differences in pre-negotiation and post-negotiation positions.

2. Identify any supplemental cost data obtained and discuss the degree to which it supports the prices negotiated with the contractor.

3. If applicable, include a discussion on the extent to which the contracting officer relied on cost or pricing data.

4. Discuss content and results of discussion on technical issues.

5. This section should represent your award decision rationale. If trade-offs are considered, this section will document the price/non-price trade-off analysis.

**PRE-NEGOTIATION CLEARANCE APPROVAL FOR ALPHA NEGOTIATIONS**

1. Alpha negotiations are an acquisition reform initiative where negotiations between the Government and a sole source contractor commence early in the acquisition. One example is when the Government and a sole source contractor negotiate the Statement of work and price concurrently prior to the contractor's submission of a proposal. The negotiations often include the entire Government acquisition team (i.e., contracting officer, technical experts, auditors, and counsel) in an effort to eliminate sequential reviews that usually don't commence until after the contractor submits a proposal. Acquisition lead-time is reduced by consolidating these reviews (i.e., technical analysis, audits, and counsel review) into the negotiation process. When negotiations are complete, the contracting officer can make award pending approval of a post-negotiation clearance. Although the regulations don't address alpha contracting, this type of negotiation isn't prohibited. However, contracting officers are still required to comply with the requirement of FAR 15.406-1(b) to develop pre-negotiation objectives prior to beginning alpha negotiations.
2. This attachment supplements the business clearance format of Attachment (A) to accommodate alpha negotiations. The format requires a price/cost analysis in Section IV of a pre-negotiation clearance. Section IV typically documents the contracting officer's analysis of a proposal. When using alpha contracting, however, price negotiations commence before the contractor submits a proposal. Section IV may be tailored for alpha contracting. While Section IV must always establish pre-negotiation price and profit objectives, when using alpha contracting, the objectives will be based on the Government's acquisition planning rather than a proposal analysis. Upon completion of alpha negotiations, the contracting officer completes Section VIII Post-Negotiation Summary per attachment (A) and obtains post-negotiation approval.
3. This policy applies to both locally approved clearances and those requiring NAVSUPHQ approval. Our intent is to permit alpha negotiations while ensuring compliance with FAR 15.406-1(b). In addition, FAR 6.303-1 prohibits negotiations prior to approval of a sole source justification. We encourage the NFCS to improve sole source acquisitions through alpha contracting. However, pre-negotiation requirements, such as those at FAR 6.303-1 and 15.406-1(b), must be accomplished before commencing alpha negotiations.

Attachment (B)  
to Enclosure (3)